



**US Army Corps
of Engineers®**

LOS ANGELES DISTRICT

SPECIAL PUBLIC NOTICE

PROVISIONAL REGIONAL GENERAL PERMIT

Regional General Permit (RGP) No. 41

Removal of Invasive, Exotic Plants

Public Notice/Application No.: SPL-2003-01094-CLM

Action Date: December 12, 2008

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TO WHOM IT MAY CONCERN

The District Engineer, Los Angeles District Corps of Engineers has re-issued a *Provisional* Regional General Permit (RGP) No. 41, which authorizes the mechanized removal of invasive, exotic plants (exotics) from waters of the U.S. including wetlands within the portions of California in the Los Angeles District of the Corps of Engineers (Los Angeles, Orange, Riverside, San Diego, San Bernardino, Imperial, Ventura, Santa Barbara, Mono, Inyo, and San Luis Obispo counties). This general permit has been issued under Section 404 of the Clean Water Act of 1972 (33 U.S.C. 403) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and applies to anyone requesting to remove exotics in a manner which is consistent with the terms and conditions of this RGP. A copy of this RGP is attached to this Public Notice.

RGP 41 was originally issued August 15, 1996 for a two-year trial basis. It was subsequently reissued for a period of five years and expired on August 15, 2003. It was renewed for an additional five-year period and expired December 10, 2008. The Corps is hereby reissuing RGP 41 provisionally pending certification by the State Water Resources Control Board pursuant to Section 401 of the Clean Water Act. When the Corps receives the final certification from the SWRCB, RGP 41 will be issued as a standard regional general permit.

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The purpose of this RGP is to provide a mechanism for expedited approval of invasive non-native vegetation removal projects for the general purpose of habitat recovery. Projects whose purpose is both habitat recovery and flood control would be eligible to use the RGP. The Corps, in cooperation with the Nature Conservancy, has prepared a technical document on methods for control and management of giant reed (*Arundo donax*). This document is available upon request from the Los Angeles District of the Corps of Engineers.

Public Comment: A Public Notice soliciting input regarding the need to modify RGP 41 prior to its re-issuance was issued July 14, 2008 and sent to all interested parties (Corps mailing list), including appropriate state and federal agencies. Comments were received from the San Diego Audubon Society.

Consideration of Comments: The San Diego Audubon Society recommended the addition of additional species to the list. The following plants are added to the list of species covered by this RGP: Brazilian pepper – *Schinus terebinthifolius*; Kikuyu grass – *Pennisetum clandestinum*.

Other Authorizations:

1. **Water Quality Certification**- Pending certification from the State Water Resources Control Board, the applicant is required to obtain water quality certification, under Section 401 of the Clean Water Act, from the appropriate California Regional Water Quality Control Board. Section 401 requires that any applicant for a Section 404 permit provide proof of water quality certification to the Corps of Engineers prior to permit issuance. For any proposed activity on most tribal land in SPL in California that is subject to Section 404 jurisdiction, the applicant will be required to obtain water quality certification from the U.S. Environmental Protection Agency. The exceptions are tribal lands of the Big Pine Paiute Tribe of Owens Valley, the Bishop Paiute Tribe, and the Twenty-nine Palms Band of Mission Indians, each of which implement their independent Section 401 certification program, and which would have to issue Section 401 certifications for projects on their lands.

This permit is issued provisionally contingent upon actions being individually certified by the State Water Resources Control Board, the appropriate Regional Water Quality Control Boards, by EPA for most tribal lands, or by the three tribes in California that have separate responsibility for Section 401 of the Clean Water Act. The Corps of Engineers Los Angeles District has requested programmatic Section 401 water quality certification from the State Water Resources Control Board. This certification is pending. If any of the responsible Section 401 agencies issue a certification for RGP 41, it will be appended to the permit, and any conditions of the certification would become conditions of Regional General Permit 41 for those areas under the auspices of the issuing agency. If the SWRCB, EPA or one of the three tribes in California with the Section 401 responsibility should decline certification for RGP 41, the Permittee shall be required to obtain an individual Section 401 certification, or waiver thereof, from the responsible agency before a project is authorized pursuant to Section 404 (i.e., by verification of authorization under RGP 41).

2. **Coastal Zone Management Consistency Determination**: The California Coastal Commission has concurred that the proposed RGP complies with and would be conducted in a manner which is consistent with the Coastal Zone Management Program.
3. **State and/or local authorization**: Permittees must comply with all appropriate state and local permitting requirements and fees. These may include the need for additional permits from the California Regional Water Quality Control Board, California Coastal Commission (local coastal development permits), and California Department of Fish and Game (regarding requirements to protect State-listed endangered species).

In accordance with the National Environmental Policy Act, an Environmental Assessment (EA) was prepared for this Regional General Permit. The EA may be viewed at, or requested from the Los Angeles District of the Corps of Engineers. In addition, the Material Safety Data Sheet (MSDS) for "Rodeo" brand herbicide is available, upon request, from Monsanto or from the Regulatory Division of the Los Angeles District of the Corps of Engineers. A copy of the revised RGP is attached to this public notice. For more information, please contact Crystal L.M. Huerta at (805) 585-2143.